IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 12196 of 2007(B)

PETITIONER:

K.F.NOUSHAD,
GENERAL SECRETARY, PEOPLES MOVEMENT FOR HUMAN RIGHTS, PAVUKKARA P.O., MANNAR,
ALAPPUZHA DISTRICT.

BY ADV. SRI.J.DEVADANAM
SRI.VINOD J.DEV
SRI.PRAMOD J.DEV

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, STATE SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, ALAPPUZHA.

3. THE REVENUE DIVISIONAL OFFICER, CHENGANNUR, ALAPPUZHA.

4. THE GEOLOGIST, DEPARTMENT OF MINING & GEOLOGY, DISTRICT OFFICE, ALAPPUZHA.

5. THE DISTRICT AGRICULTURAL OFFICER, ALAPPUZHA.

6. THE POLLUTION CONTROL BOARD, DISTRICT OFFICE, ALAPPUZHA.

7. THE DEPUTY SUPERINTENDENT OF POLICE, CHENGANNUR, ALAPPUZHA.

8. THE BUDHANNOOR GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, BUDHANOOR,
ENNAKKAD P.O., ALAPPUZHA DISTRICT.

9. VISWANATHAN,
VADAKKOTTIL HOUSE, BUDHANOOR P.O.,
CHENGANNUR, ALAPPUZHA DISTRICT.

10. SANTHAMMA,
GOPALAKRISHNA MANDIRAM, BUDHANOOR P.O.,
CHENGANNUR, ALAPPUZHA DISTRICT.

11. GENERAL MANAGER,
DISTRICT INDUSTRIES OFFICE, VELLAKKINAR,
ALAPPUZHA.

R6 BY ADV. SMT.K.K.THULASY BHAI,SC, PCB
R10 BY ADV. SRI.MANUEL KACHIRAMATTAM
R11 BY ADV. SRI.P.PAULOCHAN ANTONY
R9 BY ADV. SRI.BIJU M.JOHN
R8 BY ADV. SRI.B.RENJITHKUMAR
R1 TO R5 & R7 BY ADV. SRI.K.J.MOHAMMED ANZAR, SR. GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 12196 OF 2007

Dated this the 4th day of October, 2007

JUDGMENT

In this Writ Petition the only prayer sought for is that respondents 9 and 10 should be prevented by respondents 1 to 8 from conducting a brick manufacturing unit otherwise than on the strength of a necessary licence and consent from the statutory authorities.

2. A counter affidavit has been filed by the 9th respondent. He has produced Ext.R9(b) licence issued to him by the 8th respondent Panchayat. It is claimed in the counter affidavit that licence is issued by the Panchayat on the basis of consent issued to him by the Pollution Control Board. It is contended that the Writ Petition is a collusive affair between the petitioner and the 10th respondent. Ext.R9(a) produced along with the counter affidavit is copy of a common injunction order passed in a suit filed by the husband of the 10th respondent arraying the 9th respondent as defendant and in a cross suit. It is seen that the issue whether the 9th respondent should be injuncted against conducting a brick manufacturing unit has been decided in favour of the 9th respondent herein. But, I also find that the matter is pending in appeal. It was conceded by Mr.Vinod Devadanam, counsel for the petitioner that the petitioner does not have any personal interest in the subject matter

of the Writ Petition. The learned Government Pleader, Mr.K.J.Mohammed Anzar also points out that the present Writ Petition seems to be a piece of public interest litigation. Whatever that be, since it is seen that the petitioner is having Ext.R9(b) licence issued to him by the Panchayat, I do not find any justification for granting relief to the petitioner in this Writ Petition. It is open to the parties to have an adjudication of all the issues between them by the Civil Court. Of course, the Writ Petitioner is not a party to the Civil Suit in which the injunction issue was decided in favour of the 9th respondent. If the petitioner files an application for impleading in the pending suit, the learned Munsiff will consider that application favourably. The conduct of business by the 9th respondent will be subject to the outcome of the suit.

The Writ Petition will stand dismissed.

PIUS C. KURIAKOSE, JUDGE

btt